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Court to Consolidate Lawsuits Alleging Baby Food Makers Knew Products Were Contaminated With Heavy Metals

Lawsuits by families alleging their children were harmed by toxic heavy metals in baby food made by eight companies — including Gerber, Beech-Nut and Campbell Soup Company — will be consolidated in a San Francisco federal court, a federal judicial panel decided Thursday.

By Brenda Baletti, Ph.D.

10

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Ten lawsuits by families alleging their children were harmed by toxic heavy metals in baby food made by eight companies — including Gerber, Beech-Nut and Campbell Soup Company — will be consolidated in a San Francisco federal court, a federal judicial panel decided Thursday.

The lawsuits, originally filed in six different districts allege children who consumed the companies' baby food suffered brain injuries resulting in autism spectrum disorder and attention-deficit/hyperactivity disorder (ADHD).

The U.S. Judicial Panel on Multidistrict Litigation ordered the cases to be consolidated before U.S. District Judge Jacqueline Scott Corley in the Northern District of California, where five of the cases are pending and similar cases are proceeding in state court.

Fifteen other related actions in nine districts may also be added to the consolidated group.

The cases are some of the thousands filed by families of children with neurodevelopmental disorders following a 2021 U.S. government report that

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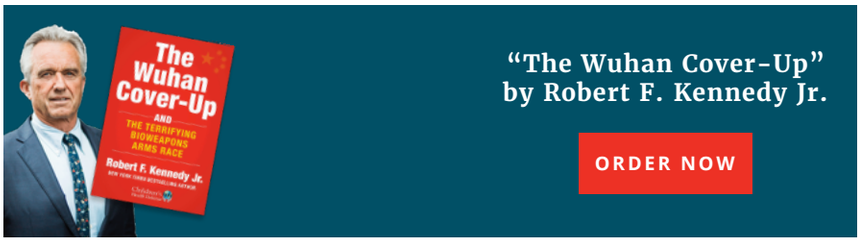
found dangerously high levels of neurotoxicants arsenic, cadmium, mercury and lead in major baby food products.

"This mass tort is going to end up being one of the most important litigations in recent history," said Brent Wisner, an attorney with Wisner Baum law firm, which represents some plaintiffs and argued for the consolidation.



"Baby food must be safe, and these defendants not only know that some of their products aren't, but they refused to be honest with parents about it," Wisner said. "It's difficult to fathom the scope of brain injury that has been inflicted on babies in this country."

Consolidating the cases will allow for more efficient litigation, the panel said in its order, given that the defendants overlap and the plaintiffs make similar allegations about the impact of heavy metals and the defendants' failure to warn of their presence.

Arguing for the consolidation, plaintiffs' lawyers contended the defendants shared manufacturers and outside testing laboratories for their baby food products, and all had common practices that allowed the tainted baby food to reach grocery store shelves.

All of the defendants opposed the consolidation, arguing that if the cases were to be centralized, it should be done in the Southern District of New York. Other defendants included Hain Celestial Group, Nurture LLC, Plumb PBC, Sprout Foods and Walmart.

"We are excited about the ruling," Wisner said. "We have been assigned a smart and accomplished jurist and we think the Northern District of California is the right venue for this case."

He added:

> "This MDL [multidistrict litigation] is the first step in taking account of the full scope of that damage and, hopefully finding some justice for the children whose lives have been forever disadvantaged."

Kelly Hellbusch, a spokesperson for Walmart, told The Defender in a statement, "The health and safety of our customers is a top priority, and we provide nutritious, affordable, and safe food for children. We will continue to defend the company against this litigation."

None of the other defendants responded to The Defender's request for comments.

Congressional committee report exposed toxic metals in baby food

A congressional committee in 2021 published a report on its investigation into toxic metals in baby food.

The investigation was conducted in response to a series of independent reports from consumer advocacy organizations released in 2017, 2018 and 2019 revealing the presence of high levels of metals known to be neurotoxic to children in most processed baby food.

The committee's "shocking" report confirmed that many baby foods, including some prominent organic brands, are contaminated with toxic heavy metals including arsenic, lead, cadmium and mercury.

Investigators found the toxic metals were present at rates between 5 and 177 times, depending on the metal, the U.S. Food and Drug Administration's (FDA) allowable level of the metals for drinking water.

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The report also warned that most baby food manufacturers don't test finished products for levels of toxic metals. Instead, they test individual ingredients and can vastly underestimate the heavy metal levels in their finished products.

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The report found that across manufacturers, internal company standards allow for "dangerously high levels of toxic heavy metals." Investigators also raised concerns that the Trump administration failed to take action when presented with data showing that existing testing and labeling practices are inadequate to protect children's health.

The investigation raised concerns that the FDA doesn't set limits on heavy metals in baby foods, except for arsenic in rice cereal. It does regulate lead in bottled water, juice and candy, and limits arsenic and cadmium in bottled water.

The report underscored the danger such metals pose to human health, particularly to babies and children who are most vulnerable to the neurotoxic effects.

For the analysis, the committee requested internal documents and test results from seven of the largest baby food manufacturers in the U.S. Only four of the companies — Nurture, Beech-Nut, Hain and Gerber — responded to the subcommittee's request and their findings were based on those documents.

The report harshly criticized Walmart, Sprout Foods and Campbell, who declined to provide their data. After the February report, those companies also provided data to the committee to varying degrees.

A second report, issued later in 2021, confirmed that those companies also knowingly sold baby food with high levels of toxic heavy metals, that they had lax internal standards and did not inform consumers of risks.

The report sparked public concern, leading to thousands of lawsuits filed against the companies in state and federal courts and calls by consumer advocacy groups for government action.

Some of the lawsuits continue to move forward in state and federal courts, some have been consolidated in this multidistrict litigation and some were initially dismissed while courts wait for action by the regulatory agencies.

In January, an appeals court ruled that because the FDA missed its deadlines to start regulating the chemicals, the courts would reinstate many of the dismissed cases.

Evidence of links to autism and ADHD

Many studies have shown that heavy metals including arsenic, cadmium, lead and mercury are neurotoxic and that such chemicals are the major driver of neurodevelopmental issues including autism and ADHD — two conditions that have been steadily climbing for several decades and often co-occur.

A 2014 report in The Lancet Neurology linked five industrial chemicals, including lead and mercury to increasing rates of autism, ADHD, hyperactivity and other neurodevelopmental disorders in what the authors called "the global, silent pandemic of neurodevelopmental toxicity."

"The developing human brain is uniquely vulnerable to toxic chemical exposures," the authors wrote, "and major windows of developmental vulnerability occur in utero and during infancy and early childhood."

Children and babies also have higher exposure to heavy metals than adults because they consume more food relative to their body weight, absorb metals more easily and have not yet developed the mechanisms to metabolize them.

A long list of peer-reviewed studies, reviews and meta-analyses conducted over the last decade have found a positive association between heavy metals and autism.

For example, a 2019 study found an association between early life exposure to arsenic and autism. A 2017 study in Nature Communications found a link between prenatal exposure to multiple metals and autism.

Another 2017 study found mercury levels were higher in the blood and brains of children with autism and identified the chemical as a key causal factor in the disorder.

A study published in 2023 in the Frontiers in Pediatrics found that all of the metals detected in baby food — cadmium, lead, arsenic and mercury — were present at higher levels in the hair and blood of children with autism.

A 2013 meta-analysis published in the Clinical Psychology Review linked ADHD to lead exposure.

A 2020 study of children in Chile found that children with higher levels of blood lead and urinary arsenic had more than double the risk of developing ADHD. Similarly, a 2018 study linked exposure to cadmium, lead and mercury to ADHD in school children.

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New regulations are just suggestions

Nearly two years after the congressional report, the FDA in January issued draft guidance proposing maximum limits for amounts of lead in baby food. The proposed limits for baby food manufacturers are not mandatory.

The limits are aimed at processed food packaged in jars, pouches, tubs and boxes produced for children under age 2. Although the guidelines were created in response to the 2021 reports and subsequent public outcry, they don't limit the other metals that the congressional inquiry and consumer groups have identified in baby food.

The FDA said that although the suggested action levels are not binding, the agency can consider them with other factors when deciding to bring enforcement action against food producers.

In April 2022, the FDA also proposed draft guidance setting lead limits in juices.

Both new suggestions from the agency are part of its Closer to Zero plan, released in April 2021, in direct response to the congressional report.

In its press release announcing that plan, the FDA said its own testing showed children are not "at an immediate health risk from exposure to toxic elements at the levels found in foods," adding, "In reality, because these elements occur in our air, water and soil, there are limits to how low these levels can be."

Yet, it said, because American people want food for young children without toxic chemicals, the agency will use a "multi-phase, science-based, iterative approach" to getting toxins out of food.

Frustrated by the slow pace of action by the FDA, New York Attorney General Letitia James, along with attorneys general from 21 other states filed a citizen petition in October 2021 urging the FDA to take "swift and comprehensive action" to reduce the levels of heavy metals in baby foods.

The agency rejected the petition, saying it proposed an inadequate methodology.

Despite the FDA's assertion that toxic chemicals in food for babies and small children pose no immediate health risk, toxic health exposure events continue to occur.

A recent outbreak of lead poisoning among hundreds of children in applesauce in February sparked renewed public concern about toxic chemicals in baby food again.

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Brenda Baletti, Ph.D.

Brenda Baletti, Ph.D., is a senior reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.

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But toxic heavy metals are fine in vaccines?!
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Yes - according to our corrupt federal agencies. This is why we must make sure RFK, Jr. is on the ballot in all states!
1 0 Reply

JFB → Michael Eichel
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Yeah the "adjuvants" "stimulate" our immune system lol
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Buildemup
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RFK Jr is the only person running for president who is actually showing any form of caring to stop this evil agenda from the powers
2 0 Reply

MOLLY29
5 days ago

This is pure evil....how in the hell are these monsters getting away with poisoning our children....all of these people involved should be put in prison and the keys thrown away....this is the lowest of evil...

2 0 Reply

JFB → MOLLY29
5 days ago

Because the FDA is captured by the "food" industry and big pharma.

0 0 Reply

Buildemup
5 days ago

What's the h..l is going on in our world? Why is there so much darkness and evil going on in mankind? No one has the right to kill, plot, plan, diabolically secretly set in motion the demise of the human race. Seriously beginning to believe that there are aliens working an agenda with governments.
There is just much wickedness happening

1 0 Reply

kellicallihan
5 days ago

This is heartbreaking for the families with children who have been harmed. I have used a gentle detox protocol for my grandson,1.5 years old, who had high lead levels and within 2 months his levels were nearly non existent. God created our bodies miraculously we just need to clean out the junk, heavy metal and toxins then the body can fix itself.

1 0 Reply

Furious in New Jersey → kellicallihan
4 days ago

Hello,

What did you use to get rid of the toxins in your grandchild?

1 0 Reply

kellicallihan → Furious in New Jersey
2 days ago

It is a zeolite product, a specific one as I have tried many of them over the years.

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